



**THE CITY OF NEW YORK
LAW DEPARTMENT**

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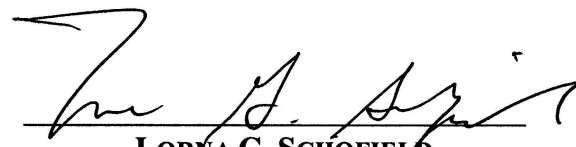
June 8, 2020

VIA ECF

Honorable Lorna G. Schofield
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Application GRANTED in part. Defendant shall have two additional hours to depose Plaintiff Jorge Rivas.

Dated: June 10, 2020
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

Re: Nell, et al. v. City of New York
19 Civ. 6702 (LGS)

Dear Judge Schofield:

I am the Assistant Corporation Counsel in the Office of James E. Johnson, Corporation Counsel for the City of New York, assigned to represent Defendant City of New York in the above-referenced action. I write to provide Your Honor with an update regarding today's Court-Ordered deposition of Plaintiff Jorge Rivas. On May 14, 2020, the parties provided Your Honor with an agreed upon schedule for seven out of eight Plaintiffs identified by the City to depose for its remaining 25 hours of depositions. ECF Dkt. 66.¹ On May 15, 2020, the Court Ordered the submitted schedule. ECF Dkt. 67. Plaintiff Jorge Rivas' deposition was scheduled for June 8, 2020 at 2 PM.

Between May 15, 2020 and June 8, 2020, Plaintiff's counsel did not inform the City that Plaintiff Rivas would require a Spanish-language interpreter. During the first few minutes of the deposition, it became clear to the City's attorney taking the deposition, Alison Mitchell, that Plaintiff Rivas would require an interpreter. Ms. Mitchell then had an off-the-record conversation with Plaintiff's counsel regarding the need for an interpreter. Plaintiff's counsel then stated that she would consult with her client and, after doing so, Plaintiff's counsel requested an interpreter for Mr. Rivas. The parties agreed to adjourn the deposition so that an interpreter could be secured.

¹ On May 18, 2020, the parties provided a date for the last identified Plaintiff, Lawrence Trotman. ECF Dkt. 69.

Plaintiff Rivas is the last Plaintiff to be deposed out of the eight Plaintiffs identified by the City toward its 25 hour limit. To date, the City has utilized approximately 20 of its 25 hours thereby leaving approximately five hours for the deposition of Plaintiff Rivas. On average, the City's questioning of the seven previously deposed Plaintiffs is taking approximately two-and-a-half to three-and-a-half hours. To account for the additional time necessary attendant to the required translation of Plaintiff Rivas' deposition testimony, the City respectfully requests an additional four hours of deposition time, bringing its total to 29 hours. The City will not use any of this requested additional time to depose additional Plaintiffs. I informed Plaintiff's counsel, via e-mail, that I would make this request to the Court and requested they provide their position to the City's request by 5 PM today. I did not receive a response.

Additionally, given the request for additional time, and the unique circumstances of using an interpreter through virtual means, the City is cognizant that the deposition may require more than the 7-hours allotted by FRCP 30(d)(1). As such, the City requests an additional three hours of questioning pursuant to FRCP 26(b)(1) and (2). Republic of Turkey v. Christie's, Inc., No. 17-cv-03086 (AJN) (SDA), 326 FRD 402, 407 (S.D.N.Y. 2018) (Court granted an additional 3.5 hours of deposition after considering the additional time it takes to translate during a deposition).

The City will obtain the availability of a Spanish-language interpreter for dates before the close of discovery, June 30, 2020, and will inform Plaintiff's counsel of said availability. If the parties cannot agree to a date within the current discovery schedule, the City will inform the Court.

Respectfully submitted,

/s/

Samantha P. Turetsky
Assistant Corporation Counsel

Cc: Counsel of Record (by ECF)